

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Shelmon, William

Confirmation No.: 2137

Serial No.: 10/658,302

Art Unit: 3782

Filing Date: September 9, 2003

Examiner: Larson, Justin Matthew

For: COLLAPSIBLE CONTAINER HOLDER

AMENDMENT

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated July 16, 2007, please consider the following proposed amendments to the claims for the above-identified patent application:

Amendments to the claims are reflected in the listing of claims, which begins on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.

IN THE CLAIMS

1. (Currently Amended) A collapsible container holder assembly for carrying a container in a vehicle, said container holder comprising:

a carrier portion having at least one recessed opening extending between a top end and an opposite bottom end of said carrier portion;

at least one container receptor portion having a generally horizontal and planar support surface integral with a bottom end of the container receptor portion for supporting a bottom end of the container, said receptor portion being adjustable relative to said carrier portion between a collapsed position disposed within said recessed portion and an extended position protruding axially and downwardly relative to said bottom end of said carrier portion; and

a locking mechanism for locking said at least one container receptor portion in said extended position, said locking mechanism being locked by rotating said at least one container receptor portion in a first direction while extended and unlocked by rotating the at least one container receptor portion in an opposite second direction, said locking mechanism comprising:

an arm protruding from an exterior surface of said container receptor portion toward said carrier portion, said arm being spaced apart from and generally parallel with a radially outwardly extending rim of said container receptor portion; and

a flange protruding from an interior surface of said carrier portion toward said container receptor portion, said flange being aligned in the axial direction between said arm and said rim when said container receptor portion is in said extended position, said flange being retained between said arm and said rim after said rotation of said at

least one container receptor portion in said first direction to lock said at least one container receptor portion in said extended position,

said arm having a boss that extends generally axially toward said rim of said container receptor portion.

said flange having a recess that is complementary with said boss and receives said boss therein to resist rotation of said at least one container receptor portion relative to said carrier portion.

2-4. (Cancelled)

5. (Previously Amended) The container holder assembly of claim 1 wherein said at least one container receptor portion comprises at least one retaining arm disposed on an exterior surface, said at least one retaining arm operative to prevent said at least one container receptor portion from being pushed out from said carrier portion when said at least one container receptor portion is moved to said collapsed position.

6-10. (Cancelled)

11. (Previously Presented) A collapsible container holder assembly as set forth in claim 1, wherein said flange is generally parallel with said arm.

12-13. (Cancelled)

REMARKS

Applicant appreciates the time taken by the Examiner to interview this case by telephone on August 28, 2007. Applicant respectfully submits the present amendment, which is believed to be in accordance with the substance of what was discussed in the interview and places the application in condition for allowance.

§102(b)

Claims 1, 5 and 11 stand rejected under §102(b) as being anticipated by United States Patent No. 879,370 (Dennison). Dennison discloses a service box which can be coupled to an underground cut-off valve and which is generally tubular in shape to allow access to the cutoff valve through the service box. The service box in Dennison also includes a lower member A and an upper member B telescopically engaged with each other so as to allow shortening or lengthening of the service box to accommodate cut-off valves at various depths below the ground. Dennison also discloses a removable cap C for covering the top opening of the upper member B to cover the service box and conceal the cutoff valve. Dennison is cited as disclosing the collapsible container holder assembly as defined in claims 1, 5 and 11. Applicant respectfully disagrees.

Dennison lacks a support surface that could be used to support a bottom end of a container. Both the lower member A and the upper member B in Dennison are tube shaped and open ended to allow access therethrough to a cutoff valve. Providing a support surface as defined in claim 1 would defeat the purpose of the service box in Dennison, i.e. to allow access therethrough to an underground cut-off valve. The arch-like base *a* is not a bottom support surface, but rather a means for mounting the service

box to a cut-off valve. The open-ended shape of the lower member A is best shown in the cross section of Figure 3.

As highlighted in the interview, it is submitted that the removable cap C would not function as a support surface for a container if the service box were inverted for use as a container holder, as the cap C is "loosely" (line 90 in Dennison) supported on the flange g and would simply separate from the open end of the upper member B if pressure (e.g. the weight of a container) were placed on the cap C from the inside. Nonetheless, claim 1 has been amended to further define the support surface as being generally planar and integral with a bottom end of the container receptor portion.

Claim 1 has also been amended to include the limitations of claims 12 and 13, which respectively define a boss that extends axially toward the rim of the container receptor portion and a recess in the flange that receives the boss therein to resist rotation of the container receptor portion relative to the carrier portion.

It is submitted that Dennison lacks several limitations of claim 1, including the integral support surface for supporting a bottom end of a container; the boss extending axially toward the rim of the container receptor portion and the recess in the flange for receiving the boss therein. As such, Applicant respectfully requests reconsideration and withdrawal of the anticipation rejection of claim 1.

Applicant also respectfully requests withdrawal of the anticipation rejection of claims 5 and 11 on the basis of dependency from base claim 1.

§103(a)

Claims 1, 5 and 11 are also rejected under §103(a) as being unpatentable over DE 10101642 (Schlesener) in view of Dennison.

In order to establish a prima facie case of obviousness, a prior art reference or combination of references must teach or suggest all of the limitations of the claims.

Claim 1 has been amended to include the limitations of claims 12 and 13. More specifically, claim 1 has been amended to include a boss extending axially from the arm toward the rim of the container receptor portion. Claim 1 has also been amended to include a recess in the flange for receiving the boss therein to resist rotation of the container receptor portion relative to the carrier portion.

It is conceded that the combination of Schlesener and Dennison lacks the boss/recess arrangement for preventing rotation of the container receptor portion relative to the carrier portion. As such, Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of claim 1 as being unpatentable over Schlesener in view of Dennison.

Claims 12 and 13 were rejected under §103(a) as being unpatentable over Dennison, or Schlesener in view of Dennison, and either in view of United States Patent No. 2,893,167 (Davidson). Claims 12 and 13 are cancelled as a result of the amendment to claim 1 adding the limitations defined in claims 12 and 13.

As mentioned, it is conceded that the combination of Schlesener and Dennison lacks a boss/recess arrangement for preventing rotation of the container receptor portion relative to the carrier portion. Davidson is cited to bolster Dennison and Schlesener in this regard. Davidson discloses a collapsible plant container with an annular ridge 15 and an annular groove 16 that resists axial movement between concentric generally cylindrical shells. It is asserted that the annular ridge and annular groove in Davidson teaches the general use of a boss and recess for preventing relative movement between

two parts in general, and that it would have been obvious to one having ordinary skill in the art to combine this general teaching with Dennison or Schlesener in view of Dennison to arrive at the boss/recess arrangement as specifically defined in claims 12 and 13 (now claim 1). Applicant respectfully disagrees.

Applicant is not claiming a general boss/recess arrangement. The boss, as was defined in claims 12 and 13, is specifically limited to one which extends axially from the arm of the receptor portion and toward the rim of the receptor portion to engage a complementary recess in the flange to prevent relative rotation between the receptor and carrier portions of the container holder. The specific orientation of the boss as extending axially toward the rim of the receptor portion is not shown or suggested by the *annular* ridge in Davidson. The annular ridge in Davidson engages an annular channel to prevent *axial* movement of one shell relative to another shell of the plant container. Rotational movement between the shells in Davidson is still allowed by the annular ridge and annular channel arrangement in Davidson. In this light, Applicant respectfully disagrees with the notion that one skilled in the art would have been taught by the annular ridge and channel arrangement in Davidson to arrive at the axially extending boss and recess as defined in claim 1 to prevent rotation between the receptor and carrier portions of the container holder. Applicant believes such construction of Dennison or Schlesener in view of Dennison, and either in combination with Davidson to be less suggestive to one of skill in the art and more like impermissible hindsight, as the only teaching, suggestion or motivation on record to make such a combination is found in the present application. The combination of Dennison or Schlesener in view of Dennison, and either in view of Davidson still lacks several positive structural limitations defined in amended claim 1:

- the boss that extends from the arm toward the rim of the container receptor portion;
- the axial orientation of the boss from the arm toward the rim; and
- engagement between the axially extending boss and the recess to resist rotation between the receptor and carrier portions of the container holder.

As such, Applicant respectfully requests reconsideration and withdrawal of the obviousness rejection of claim 1 as being unpatentable over Dennison or Schlesener in view of Dennison, and either in view of Davidson.

CONCLUSION

In view of the amendments and comments provided herein, Applicant believes the remaining pending claims are in condition for allowance and respectfully requests notice indicating such allowance. Otherwise, Applicant respectfully invites the Examiner to call the undersigned Attorney at the number provided below to discuss any remaining concerns and to facilitate advancement of the present application toward allowance.

September 17, 2007

Respectfully submitted,

Electronic Signature: /Gilbert R. Gabo/
Gilbert R. Gabo (Reg. No. 57,164)
Gifford, Krass, Sprinkle, Anderson & Citkowski, P.C.
2701 Troy Center Drive, Suite 330
Troy, Michigan 48007-7021
(248) 647-6000

GRG/ke